



DIRECTOR'S REVIEW (APPLICATION REJECTION)



Published by Workforce & Staffing Consultants
Division of Human Resources, Department of Personnel & Administration

GENERAL

Applicants are responsible for providing enough information to allow agencies to make "informed" decision about the applicant's qualifications for the job. The purpose of screening applications is generally to include applicants rather than exclude them. However, an agency will be required to reject an application because it does not provide sufficient information or documentation to determine that the applicant meets the minimum job requirements/qualifications.

Administrative Procedure P-8-21 of the Personnel Board Rules and Personnel Director's Administrative Procedures provides applicants the right to request the Personnel Director review an agency's rejection of the applicant's application by submitting a written request for such a review directly to the Director. In accordance with this procedure, agencies are required to notify applicants of their due process rights under the Director's Review Process. To not notify the applicant would be violation of the Personnel Board Rules and Personnel Director's Administrative Procedures. The date that the applicant received the notice of application rejection will be used to determine if the request for Director's Review is timely filed. Therefore, it is highly recommended that agencies provide the notice of application rejection in writing in order to establish the timeline for an applicant's request to the Director. It is also recommended that the agency's notification letter state the reason(s) the individual's application was not accepted.

RESOLUTION OF DISPUTES

Rule R-8-1 of the Personnel Board Rules and Personnel Director's Administrative Procedures provides that disputes should be resolved at the lowest level and as informally as possible. All disputes should be resolved in a fair and unbiased manner as quickly as possible. Administrative Procedure P-8-20 provides an opportunity for applicants and agencies to attempt to resolve any disagreement pertaining to the applicant's application rejection by the agency. In accordance with Procedure P-8-20, agencies are encouraged to invite applicants to attempt to informally resolve any disagreement pertaining to their application rejection by contacting the agency within 5 days of the applicant's receipt of the application rejection notice. Additionally, agencies are encouraged to communicate with any applicant whose application is rejected to provide sufficient information to the applicant so the reason(s) for his/her application rejection are fully understood. Agencies are also encouraged to provide the applicant with information concerning other job opportunities for which the applicant may be qualified.

An applicant's or agency's attempt to informally resolve any disagreement pertaining to an application rejection shall not restrict the applicant's right to request the Personnel Director review his/her application rejection by an agency under Procedure P-8-21.

DIRECTOR REVIEW PROCESS

- A. PURPOSE. The purpose of the Director's Review of an application rejection is to review an agency's decision to determine if the agency's decision was arbitrary, capricious, or contrary to rule or law. In determining whether an agency was arbitrary, capricious, or contrary to rule or law, the Director must determine whether a reasonable person, fairly and honestly considering the same information that was available to the agency at the time of the decision, would be compelled to reach a different conclusion than the agency reached. To overturn the agency the Director must find that there is no competent evidence in the record as a whole to support the agency's decision.
- B. FILING DEADLINE. If an applicant desires to request the Personnel Director's Review of his/her application rejection, the applicant must comply with the requirements of Procedure P-8-21 of the Personnel Board Rules and Personnel Director's Administrative Procedures. Under Procedure P-8-21 an applicant may request that the Personnel Director review their application rejection by submitting a written request to the Director. The written request must be received by the Director within 10 days from the applicant's receipt of the agency's notification letter of application rejection.
1. TIMELINESS OF REQUEST. Rule R-8-39 states that any appeal is timely if it is received or postmarked within 10 days after receipt of the written notice of the action. Under Procedure P-8-21, the date of receipt of notice of or knowledge of his/her application rejection is used to determine if the appeal or request is filed timely. To be timely filed, an applicant's request for a Director's Review of his/her application rejection must be postmarked or filed with the Director within 10 days after the applicant receives the agency's notice letter of application rejection or other knowledge of the application rejection action. Rule R-8-39 provides that if the 10th day falls on a weekend or legal state holiday (regular schedule), the time period will be extended to the next regular business day. Additionally, if the agency's notice of application rejection was not sent by certified mail, R-8-39 provides guidance that the Director shall add up to three days to the date on the agency's notice of application rejection, if required, in order to determine the timely filing of the applicant's request for Director's Review.
 2. INFORMATION TO BE INCLUDED IN THE REQUEST FOR DIRECTOR'S REVIEW. The applicant's request for Director review of an application rejection must be in writing and include the following:
 - job title,
 - agency involved,
 - name of the agency representative spoken to during informal resolution attempts,
 - the date of the conversation with the agency representative,

- the specific issue to be reviewed, and
 - the reason it is believed the agency's decision is arbitrary, capricious, or contrary to rule or law.
3. TEN-DAY TIME LIMIT IS FIRM. Any contact by the applicant or the agency in an attempt to achieve resolution of the application rejection shall not extend the 10-day time limit for the applicant to file his written request for the Personnel Director to review his/her application rejection in accordance with Procedure P-8-21 of the Personnel Board Rules and Personnel Director's Administrative Procedures.
- C. INVESTIGATION. When an applicant requests the Personnel Director review his/her application rejection, the Director will select an investigator from the Department of Personnel & Administration staff to review the matter.
1. DOCUMENTS REQUIRED FOR THE INVESTIGATION. To complete his/her report, the investigator will need to review all documents submitted by the applicant and certain agency documents pertaining to the application process in order to properly evaluate the applicant's complaint and to provide a recommendation to the Director. To assist in the evaluation of the applicant's complaint, the investigator will request the agency to provide the following documents:
- a copy of all application documents submitted by the applicant prior to the agency decision.
 - a copy of the agency job announcement for the position.
 - a copy of the notification letter of application rejection to the applicant.
 - agency statement to explain the reason/rationale for rejection of the application.
2. INVESTIGATOR'S FINDINGS. Upon completion of the investigation, the investigator must provide a written report of his/her findings to the Director.
- D. DIRECTOR' DECISION. Based on the results of the investigation, the Director will make a decision regarding the acceptance or rejection of the application. In accordance with Procedure P-8-23, the Director's decision will be issued within 90 days from receipt of the written request for Director's Review of the application rejection. The Director's decision will be final. If a decision is not issued within the time period, the initial decision of the agency is upheld.
- E. COPIES OF THE DECISION. Both parties will be provided a copy of the decision.
- E. In accordance with Personnel Board Rules and Personnel Director's Administrative Procedure P-4-14, addition of names and adjustment of rankings or scores do not affect prior appointments or referrals. The placement on an eligibility list of such an applicant who participates in a make-up examination shall not adversely affect appointments previously made or referrals in process.